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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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04/26/2000

Charles Calvin Byers

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03/09/2004

Lucent Technologies Inc
Docket Administrator Room 3C-512
PO Box 636
Murray Hill, NJ 07974-0636

EXAMINER

LONSBERRY, HUNTER B

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/560,245

Applicant(s)

BYERS, CHARLES CALVIN

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-12, 14-17, 19-27, 29-35, 37-43 and 45-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9-11, 14-17, 19, 20, 22, 24-27, 29, 30, 32-35, 37, 38, 40-43, 45, 46 and 48 is/are rejected.
- 7) ☒ Claim(s) 8, 13, 21, 23, 31, 39 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 1/15/2004 have been fully considered but they are not persuasive.

1) Applicant requests documentary evidence that the use of "time of day" information as part of a profile is well known in the art, and argues that there would be no motivation to modify Srinivasan to utilize time of day information.

Regarding applicant's argument 1, the Examiner has provided U.S. Patent 6,684,194 to Elderling to teach the use of time of day viewing information to identify a subscriber.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Srinivasan teaches a video system, which provides targeted advertising, and a modified video stream, which inserts advertisements into the displayed video. Elderling teaches that "each session data vector 240 comprises characteristics specific to the viewer. These characteristics can be contained in any one of the vector components. As an example, a particular subscriber may frequently view a particular sit-com, reruns of a sit-com, or

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another sit-com with similar target demographics. Alternatively, a subscriber may always watch programming at a higher volume than the rest of the members of a household, thus permitting identification of that subscriber by that trait. The time at which a subscriber watches programming may also be similar, so it is possible to identify that subscriber by time-of-day characteristics.” (Column 3, lines 46-61). Both Srinivasan and Elderling are directed towards subscriber profiling, and as such they are analogous art. One skilled in the art at the time of invention would have found it desirable to modify the profiling and targeted advertisements of Srinivasan to recognize a specific user via time of day information in order to better target advertisements to a specific user.

2) Applicant argues, “Applicants invention, conversely, relates to replacing a portion of a video image to form a modified video image. The Srinivasan reference does not teach or suggest such claims.

Regarding applicant’s argument 2, the examiner directs applicant’s attention to column 6, lines 8-18, where Srinivasan discloses that the purpose of the invention is to add data to a video data stream, such as text overlay, graphic icons, and **logos for advertisement**, advertisements may be associated with a tracked object, or appear in a fixed position. Thus Srinivasan does teach forming a modified video image. Srinivasan doesn’t disclose altering an image characteristic with a replacement digital image based upon a user profile, but does disclose that different ads may be inserted based upon different profiles which are transmitted to a user from ad server in order to personalize the advertisements, so that they would be more relevant to a particular subscriber

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(column 30, lines 6-15 lines 28-40, line 63-column column 32, line 2, lines 57-67, Figure 17). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the tracking module of Srinivasan to replace the data within tracking box 29 with different targeted advertisements based upon a user profile in order to provide advertisements which would be of the most interest to a specific viewer, thus increasing the effectiveness of the advertisement.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 7, 9-11, 14-17, 19,20, 22, 24-27, 29, 30, 32-35, 37, 38, 40-43, 45, 46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,357,042 to Srinivasan in view of U.S Patent 6, 684,194 to Elderling.

Regarding claims 1-3, 9, 10, 16, and 48 Srinivasan discloses a tracking module 13 which tracks a number of pixels in a video image via tracking box 29, substitute logos or images may be placed in the tracking box as annotation data and may be transmitted over a broadband network/WAN (column 6, lines 7-18, column 7, line 7-column 9, line 30, column 13, lines 1-40, column 14, lines 27-55). Srinivasan doesn't disclose altering an image characteristic with a replacement digital image based upon a user profile, but does disclose that different ads may be inserted based upon different profiles which are transmitted to a user from ad server (column 30, lines 6-15 lines 28-

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40, line 63-column column 32, line 2, lines 57-67, Figure 17). Srinivasan does not disclose the use of time of day information. Elderling discloses a system which utilizes user profiles, and may recognize a specific user based upon time of day information column 3, line 4-column 5, line 55). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the tracking module of Srinivasan to replace the data within tracking box 29 with different advertisements based upon a profile in order to provide advertisements which would be of the most interest to a specific viewer and to utilize the time of day profiling information as taught by Elderling to insure that the current profile matches the viewer watching the current program.

Regarding claims 4, 6, 7, 11, 12, 14, 15, 17, 19, 20, 27, 29, 30, 35, 37, 38, 43, 45 and 46, Srinivasan discloses a system, which utilizes user profiles. Srinivasan doesn't disclose whether the profiles contain demographic, advertising or geographic information. The examiner takes official notice that profiles including advertising, geographic, time of day, and demographics are well known in the art. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Srinivasan to include time of day, demographic, advertising or geographic information to the profiles in order to better reach a target profile with advertising.

Regarding claim 22, Srinivasan discloses that the original element is market by a tracking box 29; the boundaries of the box are defined by pixels 32-n (Figures 2-4, column 9, lines 1-63).

Regarding claims 24 and 40, Srinivasan discloses a tracking module 13 which tracks a number of pixels in a video image via tracking box 29, substitute logos or

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images may be placed in the tracking box as annotation data, Figure 12 details customer equipment 115, which includes a display device, and import ports 125 and 127 which receive a program and annotation data which may be stored in ram and operated on via a CPU (Figure 7, 12, column 6, lines 7-18, column 7, line 7-column 9, line 30, column 13, lines 1-40, column 14, lines 27-55, column 20, line 54-column 22, line 9). Srinivasan inherently contains a DSP and video processor, as a DSP/video processor is required to insert the replacement annotation data. Srinivasan doesn't disclose altering an image characteristic with a replacement digital image based upon a user profile, but does disclose that different ads may be inserted based upon different profiles which are transmitted to a user from the ad server (column 30, lines 6-15 lines 28-40, line 63-column column 32, line 2, lines 57-67, Figure 17). Srinivasan does not disclose the use of time of day information. Elderling discloses a system which utilizes user profiles, and may recognize a specific user based upon time of day information column 3, line 4-column 5, line 55). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the tracking module of Srinivasan to replace the data within tracking box 29 with different advertisements based upon a profile in order to provide advertisements which would be of the most interest to a specific viewer and to utilize the time of day profiling information as taught by Elderling to insure that the current profile matches the viewer watching the current program. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the tracking module of Srinivasan to replace the data within tracking box 29 with different

advertisements based upon a profile in order to provide advertisements which would be of the most interest to a specific viewer.

Regarding claims 25, 33, and 41 Srinivasan discloses the use of VRAM 139 to carry a combined video image (column 21, lines 27-67).

Regarding claims 26, 34, and 42, Srinivasan inherently has a video processor, which is controlled by a CPU, as a CPU is required to control a video processor in order to assemble the annotation and video data.

Regarding claim 32, Srinivasan discloses a tracking module 13 which tracks a number of pixels in a video image via tracking box 29, substitute logos or images may be placed in the tracking box as annotation data, Figure 12 details customer equipment 115, which includes a display device, and import ports 125 and 127 which receive a program and annotation data from authoring station 51 and may be stored in ram and operated on via a CPU (Figure 7, 12, column 6, lines 7-18, column 7, line 7-column 9, line 30, column 13, lines 1-40, column 14, lines 27-55, column 20, line 54-column 22, line 9). Srinivasan inherently contains a DSP and video processor, as a DSP/video processor is required to insert the replacement annotation data. Srinivasan doesn't disclose altering an image characteristic with a replacement digital image based upon a user profile or a multicast router, but does disclose that different ads may be inserted based upon different profiles which are transmitted to a user from the ad server, a modified video stream may be transferred over a WAN (column 30, lines 6-15 lines 28-40, line 63-column column 32, line 2, lines 57-67, Figure 17). Srinivasan does not disclose the use of time of day information. Elderling discloses a system which utilizes

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user profiles, and may recognize a specific user based upon time of day information column 3, line 4-column 5, line 55). Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the tracking module of Srinivasan to replace the data within tracking box 29 with different advertisements based upon a profile in order to provide advertisements which would be of the most interest to a specific viewer and to utilize the time of day profiling information as taught by Eldering to insure that the current profile matches the viewer watching the current program.

Allowable Subject Matter

Claim 8, 13, 21, 23, 31, 39, and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,758,257 to Herz: System and Method for Scheduling Broadcast of an Access to Video Programs and Other Data Using Customer Profiles.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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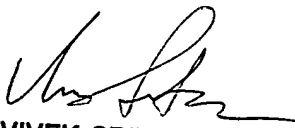
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 703-305-3234. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL


VIVEK SRIVASTAVA
PRIMARY EXAMINER